

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

MONSTER CABLE PRODUCTS, INC., a
California corporation,

Plaintiff,

vs.

VIZIO, INC., a Delaware corporation, and
DOES 1-10 INCLUSIVE,

Defendants.

Case No: C 10-5228 SBA

**ORDER DENYING STIPULATED
REQUEST TO EXTEND
MEDIATION DEADLINE and
ORDER OF REFERENCE**

Dkt. 40

The parties have submitted a third stipulation to extend deadline for mediation from November 23, 2011 to February 21, 2012 “due to the parties being engaged in settlement negotiations.” Dkt. 40 at 1. To accommodate their request, the parties further request that the Court continue the trial date and all pretrial deadlines by ninety days. Id.

Federal Rule of Civil Procedure 16 provides that deadlines established in a case management order may “be modified only for good cause[.]” Fed. R. Civ. P. 16(b)(4). “Good cause” exists when a deadline “cannot reasonably be met despite the diligence of the party seeking the extension.” See Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992). Thus, “Rule 16(b)’s ‘good cause’ standard primarily considers the diligence of the party seeking the amendment.” Id.; see also Coleman v. Quaker Oats Co., 232 F.3d 1271, 1294 (9th Cir. 2000). Where the moving party has not been diligent, the inquiry ends and the motion should be denied. Zivkovic v. S. Cal. Edison Co., 302 F.3d 1080, 1087 (9th Cir. 2002); Johnson, 975 F.2d at 609.

1 Here, the record shows that the parties have twice stipulated to continue the mediation
2 deadline, which was originally scheduled for August 5, 2011. Dkt. 38, 39. Each time, the
3 parties cited their ongoing settlement negotiations as a basis for the continuance. While the
4 Court certainly supports the parties' efforts to resolve the case without further litigation, the
5 Court is not persuaded that the parties have been sufficiently diligent such that a ninety day
6 extension of the trial date and all pretrial dates and deadlines, including the deadline for
7 completing mediation, is warranted. However, to facilitate the parties' settlement discussions,
8 the Court refers the action to Magistrate Judge Nandor Vadas for a mandatory settlement
9 conference to take place by no later than January 6, 2012. Accordingly,

10 IT IS HEREBY ORDERED THAT the parties' stipulation to extend the mediation
11 deadline and modify the trial date and pretrial schedule is DENIED. This matter is referred
12 to Magistrate Judge Nandor Vadas for a mandatory settlement conference to take place by
13 no later than January 6, 2012.

14 IT IS SO ORDERED.

15 Dated: November 28, 2011


SAUNDRA BROWN ARMSTRONG
United States District Judge